

# Quid Novi

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## HUMAN RIGHTS CONFERENCE - A SPECIAL ISSUE -

NOV 18 1987

opened with a poignant warning to always remember and closed with a tribute to someone who refused to back down even when threatened with physical violence. Two weeks ago the Faculty hosted an international conference on human rights, attracting jurists, politicians and diplomats from all corners of the world. The theme of the conference was *Nuremberg Forty Years Later: The Struggle Against Injustice in our time*, and the discussions were thought-provoking, challenging and often emotional.

hosted by InterAmicus, a newly created dependent Canadian based Human Rights Advocacy Centre, the goal of the conference was to examine the consequences of the Nuremberg trials, held forty years ago, where many Nazi war criminals were tried and found guilty of crimes against humanity. What were the lessons to be acted from these trials? How have they affected the prosecution of war criminals today? Would prosecuting offenders so many years after the events in itself constitute a violation of the rule of law? If so, given the circumstances, would such a violation be justified? Are human rights effectively protected in the international community today? To what extent should the state interfere with individual human rights in order to protect the interests of the community at large? What is to be done about the current abuses of human rights?

These were the principal topics the confer-

ence sought to address over the twenty-four hours it was convened. To this end, a broad range of speakers were invited to present their points of view, many of them actively involved with fighting injustice whether abroad or in our own back yard. A special presentation was made in honour of Carmen Quintana, the Chilean student who was brutally beaten and burned alive by soldiers while partaking in a nationwide student protest. Her determination to see her attackers

brought to justice was internationally recognized as she accepted the inaugural *Robert S. Litvack Memoria Award*, presented to someone who has demonstrated devotion to the cause of human rights. We hope that by devoting this issue to the conference, those of you who did not attend will reap some sense of the issues raised and for those who participated, it will provide an opportunity to reconsider the multitude of controversial points debated.

## WITNESS

By Terry Pether

In opening the International Human Rights Conference, deathcamp survivor and Nobel Peace Prize laureate, Elie Wiesel inaugurated the Raoul Wallenberg Lectureship in Human Rights. Raoul Wallenberg was last seen in the company of the Soviets in 1945, after which he vanished, but his legend was unknown until the 1970s. Before then, there were no efforts to secure his release or, at least, to force the Soviet Union to divulge the true story of his fate. Even Jews, Wiesel lamented, had failed to repay their hero.

Wallenberg, said Wiesel, was an aristocratic and principled man who dared to take on the Nazi secret police and, in so doing, saved the lives of more Jews than any foreign state did during World War II. Why then, wondered

Wiesel, was there silence, a "voluntary forgetting"? Wiesel explained that Wallenberg showed how it was possible to oppose the oppressor and to block the machinery of the Holocaust. In other words, the tragedy was not unavoidable. It would have been possible to save many more victims. Because of Wallenberg, Wiesel added, no person, not himself as a victim, could claim he was powerless. Wiesel was not asserting that it was given to each to vanquish the enemy, but only to each to resist. And the story of Wallenberg, he said, marked a moment of "human grandeur", showing one man's ability to transcend his own life in order to give to others.

Turning to the theme of the Conference, *Nuremberg Forty Years Later*, Wiesel said

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# ANNOUNCEMENTS

## TALMUD CLASS

Every Wednesday, 1:00 p.m.  
Room 202

Taught by former student Greg Bordan. Everyone is welcome, no background needed.

\* \* \*

## MURDER-BY-LAW

*Murder-by-Law* has been pre-empted this week to bring you a special *Quid* issue on the Nuremberg Conference. Stay tuned next week as Tracy discovers whodunnit and faces the greatest threat to her life and sanity since 1st year Contracts.

Your guesses as to whodunnit will be accepted up until November 18. Back issues available at the *Quid* Office.

Teresa Scassa

\* \* \*

## SQUASH MANIA

Attention Squash Ladder Players:

To accelerate the re-ordering of the ladder to a smooth sequence of ability levels, players will be permitted, until the last day of classes, to challenge anybody on the ladder, regardless of the number of spots separating them. If you are not on the ladder but would like to be, put your name and phone number on a blank tag and play soon!

\* \* \*

## VEUILLEZ PRENDRE NOTE

*La Revue de droit* a un nouveau numéro de téléphone: le 398-0631.

## PLEASE NOTE

The *McGill Law Journal* has a new phone number: 398-0631.

## CONVOCATION - JUNE 1988 PROVISIONAL LIST OF CANDI- DATES ELIGIBLE TO RECEIVE B.C.L./LL.B. DEGREES

A listing reflecting the present eligibility of candidates who will receive the B.C.L./LL.B. degree at the Spring Convocation is now posted in the Student Affairs Office.

Graduating students are requested to check this listing for omissions and corrections of name, previous degrees, permanent place or residence, etc., bringing any changes to the attention of the S.A.O.

Since this information will be printed in the Convocation Programme, students are advised to check the lists promptly and carefully.

Thanks for your cooperation.

Please note: CEGEP degrees do not appear in the Convocation Programme Booklet.

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## CAREER HANDBOOK RETURNS

Back by popular demand, the *Career Handbook for Law Students*, revised and expanded edition, is now available. Priced to move at \$5.25, and available daily from 11:30 - 12...30 at the Admissions Office, the *Handbook* covers all the essential elements of job hunting by law students. The book includes information on:

- career possibilities and career planning
- résumé and covering letter preparation
- how to prepare for an interview and what to expect
- where to find jobs
- when to apply for summer and articling positions
- detailed, province by province articling, bar course and bar admission requirements and procedures
- information on American admission rules and bar review courses

The *Handbook* is an invaluable resource for all students whether in first or fourth year. Even students who have already found jobs will find the materials useful (e.g. career planning, changing employers, bar admission, articling requirements, etc.).

The *Handbook* is the only comprehensive document of its kind available to McGill students. Get your copy while they last.

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## YEARBOOK

The *Yearbook Committee* wishes to remind all clubs and classes that the deadline for photos for the yearbook is fast approaching! Please inform us in writing by November 16 if you need a photographer to take your group's photo. November 23 is the last day for submitting your photos. Our mailbox is in the LSA Office. Let's make this Faculty's first ever photo annual a success!

Holly Nickel  
for the Yearbook Committee.

## QUOTE OF THE WEEK

Prof. Sklar in Evidence, November 10

"...But that's not important. That is why I'm spending so much time on it."



## WITNESS

Cont'd from p. 1

that the Nazi trials told the stories of killers and also the stories of those who did nothing. But this point never emerged from the trials. It was not brought out that the victims were snatched from their own universe and conveyed to a "parallel universe" with its own princes and slaves, language and costumes, folklore and obsessions, its own Creator. And what hurt the Jews, said Wiesel, is that the system worked. In this new and encompassing creation, a human totality wondered if history had gone mad. Nuremberg marked a moment of awakening, Wiesel said, when the world realized that something sad had indeed happened to history and that nothing henceforth would ever be the same.

After Nuremberg, Wiesel continued, legal scholars debated whether those trials represented the appropriate forum for justice for Nazi war criminals. Could a judge judge people for actions deemed to be criminal retroactively? Could a judge even presume to judge at the level of such heinous criminals? In any event, why were only leaders prosecuted when so many others served the Angel of Death? Elie Wiesel discounted such issues, saying that Nuremberg marked a triumph of memory. People, he said, came together to piece together a story. Said Wiesel, "if we remember everything we lose our minds; if we remember nothing, we lose our minds." One word, he said, symbolizes the Holocaust: "memory".

The killers, said Wiesel, even tried to kill the death of the Jews by burning their bodies, by eradicating their memory. But this "double death", was not to be achieved. This "generation without a cemetery", said Wiesel, found a cemetery in the hearts and memories of the witnesses.

But how to bear witness with language, Wiesel wondered. The Holocaust, he said, is beyond vocabulary. No words could contain the horror of children marching toward death, of the selection in the concentration camps, of the fear of the ghettos, of the solitude of the victims. There were other victims of the war, stated Wiesel, but none so alone as the Jews. Others had families they knew could live on. The Jew was alone, the last of the whole people sentenced to extinction.

Still, the stubbornness of the witness, said Wiesel, that kept the story alive is as powerful as any other force in history that ever kept civilization "eloquent". Jews, even young children, were bent on remembering. "From now until I die," said Wiesel, "if I could do nothing but name the children, I would die before the end of the list. He could also spend centuries, he added, praising the women made ugly by their killers, praising the fathers and grandfathers who managed to find words of consolation for their families.

Wiesel told the story of some Jews who were forced to burn the bodies of their brothers and sisters, yet in the shadows of the flames, they wrote chronicles. "For what?" Wiesel wondered. When these chronicles were found and later published, Wiesel wrote the preface. Weeping as he wrote, he thought to himself, "if they had the courage to write, I should at least have the courage to read." And all people now burdened with the memories must not create sadness, urged Wiesel, rather, they should laud the humanity that is possible even in the face of inhumanity.

"So what then have we learned from Nuremberg?" asked Wiesel. First, we have learned to discern evil. The Nazis were evil because

it was the law to be evil. This, claimed Wiesel, demonstrates that the law must be rooted in moral and ethical behaviour. Second, whenever we discover evil we must resist it even if it seems hopeless, if for no other reason than to preserve our own dignity. Neutrality is a sin where there are victims. The tormentor, said Wiesel, will tell his victim that he is alone and forgotten, breaking his spirit. So it is our duty to interfere with the business of others to let their victims know that they are not alone. Third, we learned that to be remembered accurately is a human right against dictatorships that seek to manipulate history. Finally, we learned that "indifference", not evil, is the worst "disease" that can contaminate humanity. And, Wiesel concluded, memory best fights indifference. "Memory can turn everyday words into poetry, into prayer."

At the end of his emotional presentation, Wiesel ultimately showed that memory can turn everyday words into poetry, that the Holocaust is not "beyond vocabulary". In thanking Wiesel for his attendance Madame Justice Claire L'Heureux-Dubé said of Wiesel, "Witness he was, witness he is. Alone he was, alone he is no more."

## LETTER TO THE EDITOR

Dear Editor:

I would like to express my personal thanks and the appreciation of everyone responsible for the administration of the Human Rights Conference to all of the students who by their devotion to duty helped make the conference a success.

David Lametti and the entire student crew that he helped recruit for this conference did an outstanding job.

Recognition is also due to those students who selflessly gave up their comfortable seats when these were required to accommodate our visitors.

You are all wonderful!!

Richard Golick

**EDITOR'S NOTE:** Congratulations are in order for all those involved in organizing the Conference. Special mention goes to Professor Irwin Cotler, Dean Macdonald and the Conference Organizing Committee for a job well done.



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# N U R E M B E R G AND ITS LEGACY

By Terry Pether

Former U.S. Congresswoman Elizabeth Holtzman opened the session entitled *Nuremberg and its legacy* by discussing the "Nuremberg Principles". Nuremberg, she began, created international norms that were to govern matters of international concern. But shortly after World War II, nations forgot Nazism and turned their energies to combatting a new enemy - Communism. Meanwhile, Nazi war criminals were accepted into society. Her own country, said Holtzman, sheltered such criminals, using them as spies, then sending them along "the rat line" to South America where they could "avoid justice".

Finally, the United States created the Office of Special Investigations to track down Nazi war criminals, and where evidence was sufficient, to deport them. Laws were also passed to prevent alleged war criminals such as Kurt Waldheim from entering the United States. But despite the expertise of the Office, Holtzman pointed out, evidence for crimes committed over forty years ago is difficult to collect. For example, she noted that it took nine years to extradite John Demjanjuk. And, she said, "the time for justice is running out."

Regardless of these difficulties, Holtzman argued, the truth must be discovered of war criminals and of the "ugly complicity" of those countries that sheltered them. We must "shame the names", said Holtzman, "for exposure is the only recourse against repetition." She conceded, however, that it is not easy for any country to admit its mistakes.

Canada did nothing until the Deschênes Commission was appointed. Holtzman recognized the value of that effort in providing the "framework for justice", but wondered how far we would go from there. Holtzman expressed her concern that no office with the requisite historical and investigative exper-

tise for special investigations was called for that no mechanism for gathering evidence from Eastern Europe was established, that no procedures were set up for deporting accused criminals for trial rather than trying them here in Canada. The war criminal, said Holtzman, should be tried where the crime was committed or in Israel. For Canadian jurists, she added, the Holocaust is simply too far away from the Canadianized citizen they see in the witness box.

Canada's Justice Minister, Ramon Hnatyshyn, responded to Ms. Holtzman by indicating that Canada does indeed have existing extradition treaties, although there are no mechanisms for deportation or denaturalization. Hnatyshyn went on to explain that our country is actively engaged in searching both sides of the iron curtain for evidence against alleged war criminals.

The Deschênes Commission, said Hnatyshyn, identified the nature and the scope of the problem of war criminals in Canada. As a result, he added, the government has been able to respond quickly with the following general principles in mind: that Canada will not be a haven for war criminals, that any trials of those war criminals should be in Canada and conducted in accordance with our Charter, and that the Criminal Code should make war crimes a criminal offence in Canada.

The government's response, Hnatyshyn detailed, involved allocating resources to the R.C.M.P. for investigations. Hnatyshyn, the politician, called this a "decisive and effective response" using our criminal law system, a system which emphasizes rights that protect the accused. For that reason, he explained, the government will not release the Deschênes list of suspects before sufficient evidence is collected. Said Hnatyshyn, Canada's approach must not create obstacles to fair trials. Said Holtzman, Canada's approach is "too generic".



# THE CUPBOARDS FINALLY SWEEPED BARE

By Joani Tannenbaum

The prosecution of some offences can never be prescribed by the passage of time. Faced with this fact, and the increasingly vocalized discontent with past attitudes of indifference, governments are no longer able to quietly ignore the presence on their territory of war criminals. Words of condemnation will no longer suffice; action is demanded, and rightly so.

Panel Two of the Human Rights Conference was entitled *Nuremberg Forty Years Later: Bringing War Criminals to Justice in Our Time*. The discussion focussed on the current status of the investigation into Nazi war criminals who fled Allied justice and found haven in countries such as Canada, the United States and Great Britain.

The investigation and subsequent prosecution or deportation of these fugitives is an obligation that must be discharged by all nations that permitted (advertently or inadvertently) these offenders to seek sanctuary within their borders.

The Canadian government has only this year introduced legislation to deal with this particular problem, after years of sweeping it under the carpet. Sven Robinson, M.P. for Burnaby, B.C., systematically documented the appalling lack of interest of former governments. While the U.K. granted admission to 70,000 Jewish refugees, Canada admitted only 5,000 before the war, and 8,000 after the war until the founding of Israel in 1948. The unofficial policy of the government with respect to non-assimilable groups was "None is too many". This policy was illustrated by a British communique to its Commonwealth members in 1948 to dispose of the past as quickly as possible, to put it behind them.

And so it was until 1981 when draft amendments to the Charter permitted the prosecution of crimes not defined by Canadian criminal law at the time of their occurrence, provided they were recognized as criminal "according to the general principles of law".

Unfortunately the attitude of forty years was too deeply ingrained in some. The responses to the growing clamour to take action on this issue were non-committal promises. Martin Lowe, presently head of the Department of Justice, felt that there was "nothing we can do." Bob Kaplan was afraid of upsetting people. It was decided that the West Germans would prefer to "let sleeping dogs lie."

Finally, in 1984, John Crosbie as Minister of Justice set up an inquiry into the presence of Nazi war criminals in Canada. The opposition was quick to express their dissatisfaction with the establishment of the Deschênes Commission. The credibility of witnesses was immediately impugned, and it was sought to prevent their testimony. The value of Soviet evidence was severely contested. This last issue is still unanswered.

During his travels in the U.S.S.R. with the Commission, Mr. Robinson encountered many witnesses, all willing to testify, all with the same question: "Why can't I tell my story before I die?" It is a question put forward by concentration camp survivors in Canada: "Why not let me tell my story?" On the thoughts of Elie Wiesel the previous evening, Mr. Robinson stressed that by silencing these people, we are denying them their reality, trying to convince them that what they experienced perhaps wasn't as bad as they thought. They are thus doubly victimized.

The conclusions of the inquiry led to the introduction in June of this year of Bill C-71. This legislation extends the jurisdiction of Canadian courts over crimes against humanity, not just war crimes. So far, no alleged war criminal has yet been brought to justice in our courts.

While Canada's legislation is in its nascent stage, the United States has been active during the past decade, after thirty years of complacency. Stressing that Canada should neither imitate nor completely ignore the American solution, Allan Ryan Jr., former director of the Office of Special Investigation (OSI), applauded the steps taken by Canada. Each country should deal with the problem of Nazi criminals within its own borders in its own manner.

Whatever the approach, whether by investigation and deportation or by prosecution in domestic tribunals, no effective remedy can be implemented without the assemblage of a staff of specialized professionals dedicated to the task of tracking down and identifying suspected offenders. Unless the prosecutor is more intimate with the evidence than anyone else in the courtroom, including the judge, and this applies no matter what kind of case you are prosecuting, he is not going to convict. Total concentration is essential to a successful prosecution. The degree of knowledge about the person and the environment at the time is paramount; every street plan must be memorized, the political organizations must be understood. How the crime took place is to be learnt in microscopic detail. This is impossible when you have to deal with tax fraud in the morning and war crimes in the afternoon.

On the topic of Soviet evidence, Mr. Ryan emphasized that if a country wishes to be taken seriously when prosecuting such criminals, it cannot consign evidence of the Soviet Union and other Eastern block countries as secondary and less accurate. Many of the alleged crimes were committed in these countries. The witnesses and the documen-

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# L'O.N.U. AU BANC DES ACCUSÉS...

Jeanne Cadorette

La table ronde sur l'O.N.U. et les droits de la personne quarante ans après Nuremberg a probablement laissé à ses participants le goût amer des espoirs déçus. Le professeur Benjamin Ferencz de l'Université Pace aux États-Unies nous a présenté certains aspects positifs de l'établissement et des réalisations des Nations-Unies mais il a aussi constaté que cette institution avait failli à sa tâche dans bien des situations.

Procureur en chef au procès de Nuremberg, Monsieur Ferencz fut réquisitionné par l'armée américaine et du, à la libération, visiter des camps où des millions d'êtres humains avaient péri. Il nous a candidement avoué que le procès de Nuremberg constituait son premier procès! Selon le professeur Ferencz le jugement des criminels de guerre par un tribunal composé de gens provenant des quatre coins du monde constituait la reconnaissance des droits inhérents à la condition humaine sans égard à des attaches nationales. Les systèmes politiques et les individus devenaient responsables de leurs actions non plus face à des intérêts purement nationaux mais face au genre humain dans son entier. Le procès de Nuremberg a donné au monde la vision d'une justice mondiale qui pouvait accorder, même à des êtres aussi cruels, un traitement équitable dans le respect des règles de poursuite et de preuve. Cet événement a permis de réveiller la conscience humaine endoctrinée avant la guerre par des discours où le nationalisme tenait lieu d'arme contre les secousses du système économique.

Les principes que le procès de Nuremberg a mis en lumière sont devenus les fondements de l'Organisation des Nations-Unies. Beaucoup d'espoir a été mis dans cette institution qui, croyait-on, pourrait permettre de régler sans effusion de sang, les conflits mondiaux. Pourtant, d'après Monsieur Ferencz, l'O.N.U. n'a pas mis fin aux génocides dans le monde et les droits humains sont toujours bafoués. De plus, l'O.N.U. est paralysée par le droit de veto que possède certains pays puissants.

Ce qui terrifie le professeur Ferencz c'est surtout la théorie de la dissuasion des grandes puissances nucléaires qui tiennent entre leurs mains la survie du monde et peuvent détruire en quelques secondes ce qu'Hitler n'a pu détruire en six ans. L'O.N.U., malgré ses grands principes, ne peut qu'acquiescer à leurs volontés à cause de sa faiblesse.

Le nazisme était basé sur une vision hiérarchisée de la société et sur l'élimination

de certains sujets jugés nuisibles. L'O.N.U. est fondée sur une vision très (ou trop...) optimiste de la race humaine, vision qu'elle oublie peut-être que l'homme, depuis des millénaires, s'est débarrassé de ses semblables lorsque ses intérêts personnels le lui ordonnaient. Le nazisme a été mis au banc des accusés en 1945. L'O.N.U. pourra-t-elle aussi être jugée malgré toutes ses bonnes intentions?

## LE LANGAGE: UNE ARME À DEUX TRANCHANTS

Jeanne Cadorette

Imaginez un instant que nous vivons dans un pays totalitaire, de gauche ou de droite selon vos préférences, et que l'annonce d'une conférence sur les droits humains est faite. Les participants sont à peine réunis que la police envahit les lieux, arrête les gens présents et confisque tous les documents. Nous sommes tous accusés d'avoir comploté contre l'état car certains sujets à l'agenda de notre rencontre sont des vues qui diffèrent de celles de notre gouvernement.

Ce scénario semble invraisemblable dans le contexte canadien mais plusieurs pays du monde sont ainsi contrôlés. D'une certaine façon les faits mentionnés expriment bien les opinions des trois panelistes de la table ronde sur la liberté d'expression. Chacun d'eux voyait d'une façon différente Nuremberg, les droits humains et surtout l'utilisation du langage en société.

Le juge Maxwell Cohen fut président de la Commission sur la propagande haineuse dans les années 60. On peut facilement en conclure qu'il adhère aux objectifs de la Commission qui sont ensuite devenus les principes de la loi. Celle-ci interdit la promotion du génocide et de la haine envers un groupe identifiable de la société. Pour le juge Cohen le langage peut être utilisé d'une façon abusive et notre société doit décider si

elle veut faire du langage un élément d'unification ou de discorde.

Pour Me Ram Jetmalani de l'Inde ce ne sont pas les procès comme celui de Zundel qui sont importants mais bien plus la mentalité qui les sous-tend. Selon lui nous vivons à une époque plus dangereuse que celle de la Seconde Guerre Mondiale. Certains individus ou partis pouvaient détester d'autres peuples et vouloir les faire disparaître mais aujourd'hui ce sont des peuples entiers qui partagent cette volonté. Des pays deviennent d'immenses camps de concentration où les gens trop épris du respect des droits humains disparaissent sans laisser de trace. Pour monsieur Jetmalani le procès de Nuremberg a été un échec monumental car il n'a servi qu'à assouvir le désir de vengeance des peuples vainqueurs et n'a pas du tout servi d'exemple pour le futur. Selon lui finir le travail de la Seconde Guerre Mondiale veut dire empêcher les humains de revivre de telles atrocités et non pas poursuivre sans relâche les criminels de guerre.

Le dernier paneliste fut à coup sûr le plus controversé des trois. Alan Dershowitz de l'Université Harvard est sûrement le plus ardent défenseur de la liberté d'expression complète. Pour lui tous les individus peuvent juger eux-mêmes de ce qui est vrai ou faux. Nous n'avons pas le droit en tant que société

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# AGAINST INJUSTICE

By Terry Pether

The panel for the closing session, *Against Injustice*, addressed the lessons of Nuremberg and discussed strategies to ensure that, as Professor Cotler said, "acts of remembrance become remembrances to act." The first speaker, Arthur Chaskelson of South Africa, counsel to Nelson Mandela, talking about the institutionalized racism of his country, praised the bravery of blacks who risk their lives to protest against the government and who turn out by the thousands, defying government bans, to the funerals of those who have indeed paid with their lives.

Recent reforms in education, parliamentary representation, homeland and pass laws, said Chaskelson, have not altered the fundamental structures that remain in place. Security laws still make opposition impossible. Newspapers are censored. Foreign agitators are refused passports. Groups like the ANC are banned. These laws, said Chaskelson, attempt to effect the solitude and isolation of the oppressed from external support. Still, the black leadership fights back, waiting for the white leadership to follow its example. Indeed, noted Chaskelson, as he called upon the world to help the oppressed peoples of

the Langage...

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décider ce qu'ils peuvent ou ne peuvent pas entendre. Monsieur Dershowitz comprend que certains mots peuvent blesser mais est le prix à payer pour vivre en démocratie. Laisser le gouvernement censurer certains sujets délicats c'est lui accorder le pouvoir de déterminer ce qu'est la vérité et c'est aussi lui permettre de faire disparaître certains événements qui le concernent.

aut-il mieux laisser la société se défendre elle-même contre les abus de langage ou la protéger contre elle-même par des lois interdisant la propagande haineuse? Alan Dershowitz et Maxwell Cohen vous donneront des réponses opposées. La solution dépend probablement du degré de maturité que nous attribuons à la société dans laquelle nous vivons.

South Africa, it was one of the ironies of the Conference that it demonstrated how we are better at dealing with the past than with the present.

Labour Party M.P., Paul Boateng, the first black elected to the British Parliament (in 1987!), was one of the most eloquent speakers to attend the Conference. The Nuremberg Principles, he said, are a "pool of principles from which to draw, from which to see reflected what we want to be as human beings." Those principles, he added, represent our duties to each other and the sanctions that must follow when we fail in those duties.

To see the value of the Nuremberg Principles, Boateng said, they must be considered in their context, the Holocaust. Europe, he claimed, was and is full of racism. Indeed, racism and religion have been Europe's two main exports. So those of us of the "Imperial legacy", he argued, cannot simply dispose of the past, for it shapes the present and the future. We thus have to confront the past to determine the principles upon which our destiny will be based. And we must say that "there will be no future for racism," all the while believing that the roots of racism have not been eradicated.

There are still racists, said Boateng. These are the people who have "a vested interest in denial", the people who publish hate literature, seeking to divide Jews from others. Forget freedom of the press, said Boateng. Praising Canada, he argued that the Nuremberg Principles require all nations to have laws to ensure that the racist element's agenda remains unfinished. Such laws are a "political imperative", asserted Boateng, in order that what made the Nuremberg Principles necessary will never again be repeated.

But what are we to draw upon when our states' laws are insufficient, asked Boateng. First, he responded, we must recognize that the state is not always hostile and that it is not irredeemably beyond us to exercise some control. Indeed, he claimed each of us has a responsibility for the content of our states.

And we must ask our candidates for their attitudes towards the protection of individual human rights set forth in various international conventions. The Jews not only speak their own history, Boateng closed, they also speak our's. It is for us to listen.

Chief Justice Michael Kirby of Australia addressed the dilemma of punishing war criminals for crimes committed so long ago while at the same time upholding the principles of human rights that emerged from the Nuremberg trials. The criminals, said Kirby, should not be permitted to escape by their own illegality, but to avoid recourse to violence in their punishment, some rule of law must operate in bringing them to justice.

Our respect for our system of justice, said Kirby, demands that we not be silent on moral dilemmas. The right to freedom of religion, for example, is tested by extending it to the most unpopular. Indeed, when it is hardest to accord rights, claimed Kirby, it is when they matter most. Therefore, we must frankly ask whether prosecuting Nazi war criminals would represent an affront to the rights we all share, rights such as that to trial within a reasonable time. For Kirby, the answer was that courts must observe the rule of law lest there be an abuse of process. Said Kirby, we operate on higher principles than criminals and we cannot let the horror of their crimes deflect us from that posture. The rights are too fragile. Kirby concluded that we should "turn calamity into fortune" by saying that it is best to recall how the Holocaust happened and hold up the laws that would have prevented its happening to ensure that it will not happen again.

## Speaker's Corner

November 20  
Les Green, York University  
Topic: T.B.A.  
Host: Stephen Perry



*Law Students Association presents...*

# ***LIMITED LIABILITY***

## ***PARTY***

***ENTER AT YOUR OWN RISK!!!***

**"The first thing we do, let's kill all the lawyers..."**

**-William Shakespeare**

**SATURDAY, NOVEMBER 21, 1987**  
**UNION BALLROOM, 3480 MCTAVISH**

**9:00 P.M. - \$ 2.00**

### **The Cupboards Finally Swept Bare Cont'd from p. 5**

tation needed to build up sufficient evidence are there. Their role should not be lightly dismissed, especially given that any witness, irrespective of nationality, is thoroughly examined to determine the truth and motivation of their statements.

Mr. Ryan warned against letting procedural debates and political argument stand in the way of effective prosecution of Nazi war criminals forty years later. While there is room for debate on the mechanisms to be used, it should not detract from the primary goal of bringing these people to justice.

The lighthearted delivery of Greville Janner, M.P. in the United Kingdom was contrasted against the implications of the words uttered with the deepest conviction and concern. In Britain, no crimes that are punishable at law were committed against British subjects at the time they occurred. Prosecution is thus not possible for no jurisdiction exists.

Mr. Janner found it ironic that the country that at one point almost single handedly resisted the Nazi threat, is the only country to now resist prosecution of these very same people. He called the law iniquitous and demanding change, pointing to other Commonwealth nations that have done just that, such as Canada and Australia.

Deportation is at the absolute discretion of the Home Secretary, and this decision is subject to appeal. If an accused is extradited, to where would he be sent? No treaty exists with the Soviet Union, and Israel has its hands full as it is. Their response is do it yourselves, and that is precisely what Mr. Janner seeks. The public trials of these fugitives would be a national and international way of reviving the past as a guide to the future. They would be a lesson in life and death, a lesson against indifference. If those who fled justice after the war are not soon brought before the tribunals, the lesson will be lost on us all.

And no one will be left to speak out.